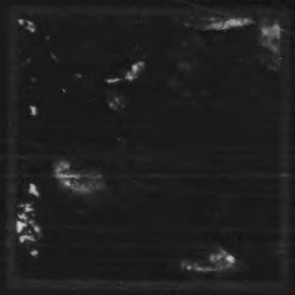

Forest
Practices
Board

FOREST PRACTICES BOARD | 2005-06 ANNUAL REPORT

2008-05012

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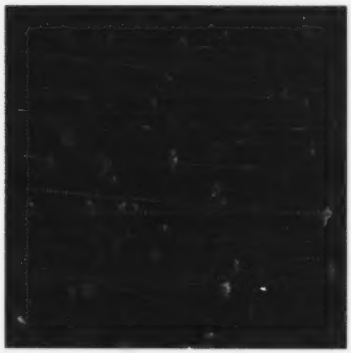
CHAIR'S STATEMENT

BRUCE FRASER, CHAIR

Forest and range practices in British Columbia are responding to major changes in ecological, economic and legislative context. Our ecological conditions are reflecting the accelerating march of climate change, with the mountain pine beetle explosion being the most compelling illustration. In the next few decades, climate projections suggest that winters will continue to warm, snow and rainfall timing will change, pest and pathogen occurrences will increase, wildfire risk will also increase and vegetation zones will migrate. These changes are likely to challenge our efforts in everything from forest health, to reforestation, to wildfire management, to managing community water supplies and to efforts to conserve endangered species habitat.

While practicing foresters are facing these fundamental issues in the condition of the landscape, the economic environment faced by the forest industry is also changing. Relationships with American and Chinese product markets are under intense revision, while new competitors for BC's fibre products are emerging from Europe and the developing world. Forests in South America and Russia are challenging us in the export markets in which our industry traditionally positioned itself or in markets that we are now targeting in our efforts to diversify.

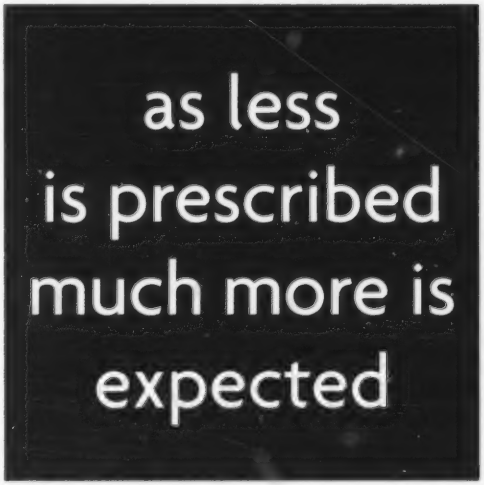


The abundance of beetle killed wood is both a blessing and a curse, as we move with haste through a short term surplus of decaying dead timber and we anticipate a corresponding shortage in the future when the salvageable wood is gone and new growth has not yet matured. These pressures dictate practices ranging from rapid and extensive salvage of dead and dying timber, to accentuated concerns for safety of workers, to management of salvaged stands for biodiversity, to establishment of more resilient forests that can withstand major disturbances in the future while still supporting a strong export industry.

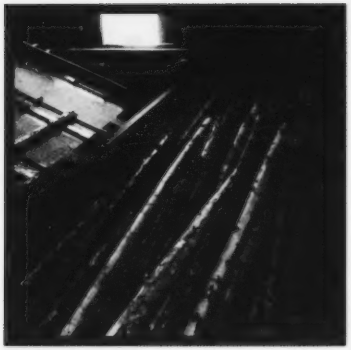
Added to these major ecological and economic challenges, the province is working its way through major legislative change. The Forest Revitalization Program, which took back 20 percent of the timber supply from major licensees, is in the process of

re-distributing it to First Nations and community forests and, through BC Timber Sales, to a significant number of smaller licensees and contractors. Legislation has permitted extensive concentration of industry ownership and concentration of major conversion facilities to achieve international economies of scale, while at the same time creating a large number of new entrants with different, smaller scale, opportunities and different ideas about forest management objectives, as is the case with a growing number of community forests.

The *Forest and Range Practices Act* has transferred much of the forest stewardship responsibility away from government to licensees, leaving more practice decisions to the discretion of forestry, engineering, biology, agrology and geoscience professionals. The more prescriptive Forest Practices Code is giving way to practice regimes that are potentially more responsive to the great regional and local variations of the province. As less is prescribed, much more is expected of professionals to design practices that accomplish stewardship of values rather than to meet legislated rules. This is leading to changes in the way that stewardship will be defined and how it must be measured.



For the Forest Practices Board, this diet of change is as demanding as it is for all the other participants in BC's forest sector. The Board's primary role is to assess how well forest licensees and government agencies render the law into practice. As the old Forest Practices Code diminishes, for which "compliance" was the test of practice, the Board is continuing to develop the tools that will be necessary to assess the "effectiveness" of forest practices in meeting stewardship objectives set by government. We need to be ready when the *Forest and Range Practices Act* reaches full implementation in 2007-08. While we are developing criteria and indicators of effective forest practices which we



plan to use as tests of sound forest practice, the parties evaluated are facing the growing list of ecological and market challenges. This is causing the Board to spend more of its energy studying major forest practices issues, like beetle salvage, reforestation success, fuel management, management of resource road access or efforts to maintain biodiversity. It is also causing us to spend more time in consultation and collaboration, both to ensure that new measurement methods are sound, and to ensure that we are sensitive to the context in which forestry is being practiced.

For five years the Board has audited forest practices and the appropriateness of government enforcement of the Forest Practices Code on Nisga'a Treaty lands, a process that is now complete. The Board worked closely with the Nisga'a forestry team to identify stewardship issues that needed to be solved to ensure that the quality of the forested land remained sound. The Nisga'a Lisims government has asked the Board to assess the completion of the final transitional provisions within the Nisga'a Treaty this fall, with a final assessment to be done in 2008.

The Board values highly the relationship it has developed with the Nisga'a foresters through this process, and sees it as a positive model for its relations with other First Nations that are in the process of acquiring forested lands.

This annual report will give you an idea of the diversity of issues brought to us from our random audits, investigations of public complaints, special projects and administrative appeals. The Board is committed to rigorous and objective examination of the effectiveness of forest and range practices and to reporting results directly to the public. At the same time, we are striving to be aware of the very challenging context in which we are all immersed and how this influences the practice choices of the forest and range professionals on whom the province increasingly depends.

THE BOARD

Top row L-R: BRUCE FRASER, FRED LOWENBERGER, DAVE MANNIX, GUENTER STAHL. Seated L-R: MARK HADDOCK, BARB SHIRLEY, DARCY MITCHELL, GEOFF BATTERSBY

Board Member Activities

The Board held four face-to-face meetings during the reporting period—in June, September, December and March—as well as seven meetings by conference call. In addition, panels of the Board (two to three board members on a panel) met periodically by telephone and in person to discuss specific audit and investigation files.

During some of the face-to-face meetings, the Board met with key stakeholders to discuss current issues and gather information on new initiatives. These stakeholders included:

- The Council of Forest Industries
- Professional associations for foresters, biologists, and engineers
- The Integrated Land Management Bureau
- The Ministry of Environment
- The chief forester and deputy chief forester
- Andreas Hamann, UBC
- The Ministry of Forests and Range *Forests for Tomorrow* program,
- Roberta Reader, a consultant preparing a report for government on *Expectations for Management of Public Forest and Range Land*

The March Board meeting was held in Kamloops, where the Board also met with local groups and individuals, including the Adams Lake Indian Band, Integrated Land Management Bureau, Kamloops Naturalists Club, BC Parks, Mountain Pine Beetle Response Team, Tolko Industries, and FrontCounter BC. The other face-to-face meetings all took place in Victoria at the Board offices.

SKYE DUMOND, OPERATIONS COORDINATOR

Board members also participated in a number of meetings with stakeholder groups and individuals throughout the year. In February, a group of Board members and staff met with the Cariboo-Chilcotin Beetle Action Coalition in Williams Lake. The Chair of the Board continued to meet with key stakeholders throughout the year.

STAKEHOLDER MEETINGS

- Association of BC Forest Professionals
- Council of Forest Industries
- Western Canada Wilderness Committee
- Association of Professional Engineers and Geoscientists of BC
- BC Minister of Environment, Barry Penner
- BC Chief Forester, Jim Snetsinger
- Fisheries and Oceans Canada
- First Nations
- BC Forest Safety Council
- Forests and Range Practices Act (FRPA) Joint Steering Committee
- Species at Risk Coordination Office
- Integrated Land Management Bureau
- Tembec Inc.
- Ecoserves
- The Professional Agrologists Association
- The FRPA Implementation Team
- The Canadian Wildlife Service
- Opposition Forest Critic, Bob Simpson
- MOFR Deputy Minister, Doug Konkin
- MAL Deputy Minister, Larry Pedersen
- MOE Deputy Minister, Chris Trumpy
- Canadian Institute of Forestry, Victoria, Campbell River and Nanaimo

BUDGET AND EXPENDITURES – April 1 2005, to March 31, 2006 (Unaudited Information)

		OPERATIONAL EXPENDITURES					
	BOARD MEMBERS & EXECUTIVE	COMPLAINT INVESTIGATIONS	AUDITS	REVIEWS & APPEALS	SPECIAL PROJECTS/ COMMUNICATIONS	ADMINISTRATIVE EXPENDITURES	TOTAL
Total Salaries and Benefits	346,193	480,330	583,507	225,461	338,326	216,281	2,190,098
Total Operating Costs	87,797	111,600	379,583	10,251	273,711	494,809	1,357,751
Total Capital Expenditures	0	0	0	0	0	0	97,857
Total Expenditures	433,990	591,930	963,090	235,712	612,037	711,090	3,645,706
Budget							3,707,000

NOTES: 1. Board members and executive expenditures cover those of the Chair of the Board, the part-time Board members, those associated with the office of the Executive Director, and those of staff providing direct support to the Board members.

2. Reviews and Appeals expenditures cover legal advice on all files of the Board.

COMMUNICATING WITH THE PUBLIC

COMMUNICATION PROGRAM REVIEW

General Results

In early 2006, the Board hired an outside consultant to review the effectiveness of our communication program. The consultant examined communication tools—such as reports, news releases and e-mail services—as well as our stakeholder relations initiatives. They conducted interviews with 19 main stakeholder groups representing government, industry and environment, as well as forest and range users, recreation and tourism groups. In addition, a satisfaction survey was sent to the subscribers on the Board's report and news release e-mail distribution service.

Overall, the results were positive. People particularly appreciated electronic communication initiatives, including the e-mail distribution of reports and news releases, as well as access to readily available web-published communications material. Stakeholders also appreciated the opportunity to provide comment on draft reports, and being able to participate in face-to-face meetings with Board members and staff. In fact, many expressed a desire for more meeting opportunities, and the Board will develop a formal stakeholder consultation plan for the coming year to address this.

Suggestions for the Future

While the Board's communications initiatives rated high, there were some suggestions for improvement. These included:

- more direct consultation
- more timely reports
- a clearer explanation of the Board's mandate
- identification and explanation regarding qualifications of staff, contractors and Board members who produce Board reports

We are working on strategies to address these areas and will be implementing changes in the coming year.

website visits 31,989

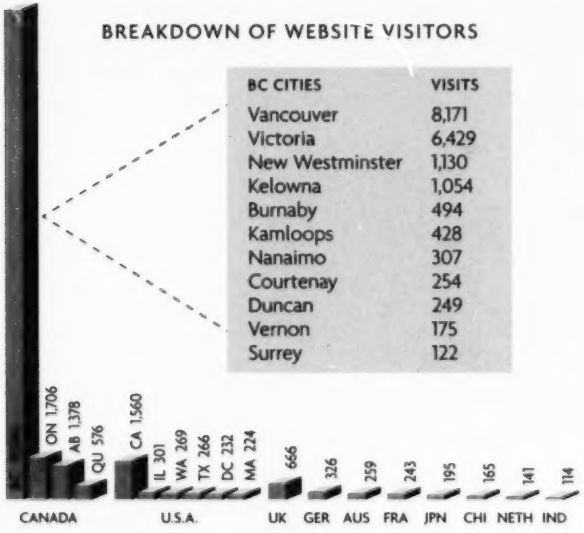
Accomplishments

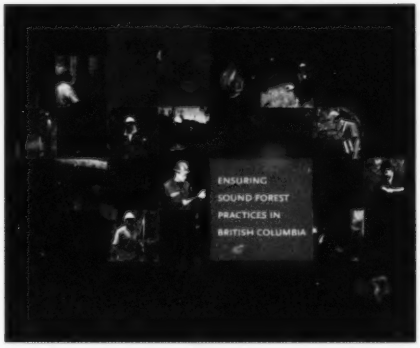
A major project in 2005/06 was production of a short DVD about the Board. We took the opportunity to send a film crew out in the field with the technical team on the water quality audit and they captured some excellent footage of Board auditors doing their work. A number of interviews were held with different stakeholders and the result is a dynamic and very informative piece about the Board and its role in the BC forest sector. A copy of the DVD can be found at the back of this annual report.

During the year, Board members and staff attended 33 different conferences, symposiums and annual general meetings and presented papers or spoke at 17 events. These sessions provide an excellent opportunity to present the detailed results of field work and inform and engage with technical and policy experts in forest management to more thoroughly explain how we do our work and what we find. Anyone organizing an event who is interested in having a Forest Practices Board speaker can call us at 1-800-994-5899.

BREAKDOWN OF WEBSITE VISITORS

BC CITIES	VISITS
Vancouver	8,171
Victoria	6,429
New Westminster	1,130
Kelowna	1,054
Burnaby	494
Kamloops	428
Nanaimo	307
Courtenay	254
Duncan	249
Vernon	175
Surrey	122





NEWS RELEASES/MEDIA COVERAGE	
News releases issued	26
Print coverage generated by the Board (newspaper articles)	33
Broadcast coverage (not including untracked local radio pieces)	6
Media coverage NOT generated by the board	20
Periodicals and journals	17

ERIK KAYE, MANAGER, COMMUNICATIONS

TIM SLATER, MANAGER INFORMATION SYSTEMS

MOST POPULAR REPORTS FOR FISCAL 2005-06		
	REPORT	# WEBSITE DOWNLOADS
1.	**Integrating Non-Timber Forest Products into Forest Planning and Practices in British Columbia (SR19)**	**927**
2.	**Evaluating Mountain Pine Beetle Management in BC (SR20)**	**674**
3.	**BC's Mountain Caribou: Last Chance for Conservation? (SR22)**	**563**
4.	Forest Health, Fuels, and Wildfire: Implications for Long-Term Ecosystem Health – A Report Commissioned by the BC Forest Practices Board	447
5.	Logging and Conservation of Endangered Plant Communities on Vancouver Island – Complaint Investigation 04055 (IRC112)	390
6.	Public Input Regarding Logging on Vedder Mountain – Complaint Investigation 040594 (IRC116)	379
7.	Audit of Forest Planning and Practices on Nisga'a Lands – Interim Report (ARC79)	327
8.	An Example of Long-Form Audit Reporting (SR15)	307
9.	Managing Landslide Risk from Forest Practices in BC (SIR14)	298
10.	Implementation of Biodiversity Measures under the Forest Practices Code – Implications for the Transition to the Forest and Range Practices Act (SR17)	296
11.	Access Management in BC – Issues and Opportunities (SR23)	276

LETTER OF TRANSMITTAL

Honourable Rich Coleman
Minister of Forests and Range

Honourable Barry Penner
Minister of Environment

Honourable Pat Bell
Minister of Agriculture and Lands

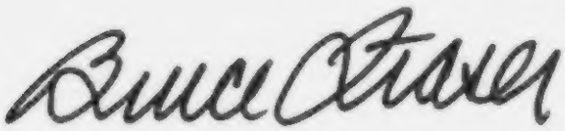
Honourable Richard Neufeld
Minister of Energy, Mines and Petroleum Resources

Honourable Stan Hagen
Minister of Sports, Tourism and the Arts

Dear Ministers:

It is with pleasure that I submit to you the Annual Report of the Forest Practices Board. The report contains information on the affairs of the Board for the period April 1, 2005, to March 31, 2006.

Yours sincerely,



Bruce Fraser, Ph.D
FOREST PRACTICES BOARD CHAIR

Publications

AUDITS

Audit of Forest Practices and Planning, BC Timber Sales Program 100 Mile House Forest District

Audit of Visual Resources Management Campbell River Forest District

Audit of Forest Planning and Practices Northern Nlaka'pamux Forestry Resources Non-Replaceable Forest Licence A73168

Audit of Stream Riparian Management Wynndel Box and Lumber Company Ltd FL A20214

Audit of Enforcement of Forest Legislation in the Fort St. James Forest District

Audit of Forest Planning and Practices, C&C Wood Products Ltd. Non-Replaceable Forest Licence A55477

Audit of Forest Planning and Practices, Lakeland Mills Ltd. Forest Licence A18163

Audit of Forest Planning and Practices, S.W.C. Holdings Limited Forest Licence A16848

Forestry Audit: BC Timber Sales Program Lakes Timber Supply Area

Audit of Forest Planning and Practices on Nisga'a Lands - Interim Report

COMPLAINTS

Clearing of Trees and Brush at a Recreation Site

Impact of Harvesting on a Tourism Business near Ootsa Lake

Datlamen Road Public Review

Consideration of Harvesting Impacts on Rare Species near Elk Creek

Harvesting in the Winlaw Creek Watershed

Harvesting and Road-Building on a Maple Ridge Woodlot

KAIRRY NGUYEN, COMMUNICATIONS/ SPECIAL PROJECTS COORDINATOR

Proposed Logging in the Shawnigan Lake Watershed

Unauthorized Construction of a Cabin and Trail on Sinclair Mountain

Logging and Conservation of Endangered Plant Communities on Vancouver Island

Humpback Whales and Helicopter Log Drops on the North Coast

Logging in Marbled Murrelet Habitat on Queen Charlotte Islands/Haida Gwaii

Closing Letter: Forest Practices Board's report on the resolution of the Round Prairie complaint

Closing Letter: Forest Harvesting and Road Building in Laird Creek Watershed

Closing Letter: Forest Practices Board's report on management of Haida Gwaii goshawks complaint

Public Input Regarding Logging on Vedder Mountain

SPECIAL REPORTS

Access Management in British Columbia: Issues and Opportunities

Post-Wildfire Hazard Assessment and Risk Management

SPECIAL INVESTIGATIONS

FSR Bridges: Inspections and Maintenance

Managing Landslide Risk from Forest Practices in British Columbia

HIGHLIGHTS FOR 2005-06

FRED PARKER, EXECUTIVE DIRECTOR

Prevention of Landslides

In 2005, the Board evaluated the incidence of landslides occurring after the introduction of the Forest Practices Code in 1995.

The report examined:

- the rate of forestry-related landslides and their potential environmental damage;
- whether landslide risk assessments conducted by professionals were adequate;
- the implications of these findings for the new *Forest and Range Practices Act*.

The investigation confirmed that the implementation of the Forest Practices Code set the standard for significant improvements in the design and construction of roads and cutblocks, which in turn has led to a decrease in the frequency of landslides from roads and cutblocks constructed post-Code. The Board also found that where landslides did occur they were less likely to damage streams. This research supports the Board's general findings that forest practices have improved significantly during the last ten years.

the onus is now on forest companies

However, we also identified numerous landslides caused by pre-Code roads, even roads that had been deactivated. In fact, the total number of landslides post-Code is similar to levels experienced pre-Code.

The report concluded that, while the forest companies completed landslide risk assessments where required, nearly half of the assessments were not subsequently used to guide logging plans or road design. Part of the implementation problem was due to the quality of the assessments. Quality of the assessments improved over time however, as forest companies and their professional consultants gained experience with the Forest Practices Code requirements.

STEVE CHATWIN, MANAGER SPECIAL PROJECTS

Under the new *Forest and Range Practices Act*, requirements for landslide hazard mapping and assessments have been removed, and replaced with a general objective to avoid negative effects from landslides on forest values. The onus is now on forest companies to complete assessments, and implement them, to prevent landslides.

Access Management

Public access to resource roads is an important issue in the province. Many people use these roads to access homes, tourism businesses, provincial parks, and popular sites for recreational activities such as camping, hunting and fishing. Maintaining access roads is a significant cost issue for resource companies and government, yet closure of roads no longer needed for resource activities can be very controversial.

Over the years, the Board has received many complaints and concerns involving road access management. As a result, in 2005, the Board took a look at the management of resource roads in BC.

The Board report identified approximately 400,000 kilometres of resource roads—the distance from the earth to the moon—yet found that the provincial government's management of these roads is not as effective or coordinated as it should be.

We anticipate another 20,000 to 30,000 kilometres of new road will be built each year for the next ten years. This increase in the road network is driven largely by expanded oil and gas and mining activities, as well as salvage of trees killed by the mountain pine beetle.

The report found there are no official processes in place for industrial road users to co-ordinate road access so as to minimize the environmental impacts and costs associated with road building, or to reduce the number of roads built overall.

Other issues raised in the report include:

- Lack of inventory: the government does not know precisely how much road we have and where it is located, or who is responsible for looking after the road network.
- Lack of public involvement: very little opportunity for public input on decisions to create new roads, and close existing roads.
- Recreation access: no effective process to restrict public access to environmentally sensitive areas, or to enforce access agreements where they already exist.
- Legislative overlap: multiple pieces of legislation govern the construction and maintenance of resource roads.
- Inconsistent standards: different requirements for forestry, oil and gas and mining companies that build and maintain roads.

The Board understands that government is looking at consolidating resource road legislation and recommends that the legislation be completed as soon as possible. The report also recommends that government develop a policy on public access restrictions on Crown land. Government's response will be published in the next Annual Report.

RUSS HAAS, FOREST PRACTICES AUDIT MANAGER

Safety on Forest Service Road Bridges

The safety of the public and industry workers who travel on forest service roads and bridges is another important issue the Board examined in 2005. The investigation looked at 268 bridges in six forest districts across the province and assessed each bridge against legal requirements for inspections and maintenance from 1995 to 2004.

Overall, the investigation found high levels of compliance with bridge maintenance standards, even during periods of organizational change within government. It also found that the Ministry of Forests and Range's inspections were conducted on time in more than 75 percent of cases surveyed. The other 25 percent of the cases were considered low safety risks, as many of the bridges examined were in isolated locations and not accessible to the public. In more than 96 percent of cases surveyed, structural deficiencies, such as bridge rot, had already been addressed appropriately by the ministry, and ultimately the investigation identified only ten bridges with structural deficiencies that presented actual or potential safety risks. The ministry has since addressed all of those safety issues to the satisfaction of the Board.

As there are fewer procedural requirements for bridge maintenance under the *Forest and Range Practices Act* and the Board wants to see this good performance continue in the future, the Board has made recommendations to this effect.

The Board asked the ministry to formalize a process for delivering the results required for bridge maintenance under the Act. In response, the ministry has developed internal guidelines for bridge inspection and maintenance that will guide these practices in the future.

CHRIS OMAN, FOREST PRACTICES AUDIT MANAGER

Post-Wildfire Hazard

Once a wildfire is extinguished, most people believe the danger has passed. However, wildfire-related hazards, such as landslides and flooding, can occur months or even years after a fire, putting people, property and infrastructure at risk. At present, there is no agency with the legal responsibility to identify fire risks or repair damage from forest fires in BC.

The Board's special report on post-wildfire hazard assessment and risk management summarizes several hazardous incidents following the 2003 fire season, including a large landslide that damaged highways and destroyed houses north of Creston almost a year after the original fire took place.

The Board investigated and provided recommendations regarding who is responsible for identifying fire-related hazards such as this one, and also for taking action to protect people and property at risk.

The recommendations are:

1. The provincial government should designate a lead agency (or agencies) for post-wildfire hazard assessment and post-wildfire risk management.
2. The provincial government should complete a standard operating procedure for post-wildfire risk assessment and management, and implement it where appropriate.
3. Where there is an unacceptable risk to people, property or infrastructure after an interface wildfire, the provincial government should explore ways of helping those at risk to manage and mitigate the risk.

The Southern Interior Forest Region is developing a standard operating procedure to ensure risks are identified and that affected parties are notified. The Board encourages government to use this approach as a model, especially in areas where public safety is at risk following forest fires.

The Board has requested a response from government by December 31, 2006, which will be published in the next Annual Report.

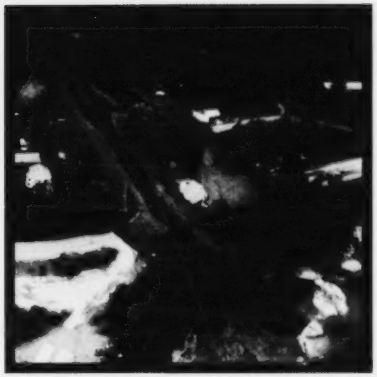


PHOTO COURTESY OF DWAIN BOYER

Visual Management Audit

The most interesting and challenging audit completed in the 2005/06 fiscal year was the visual effectiveness audit. This audit tested an approach to examining how well visual values are protected during logging operations. The area examined was in the Campbell River Forest District on the east coast of Vancouver Island. This is an extremely important area for tourism, and made an excellent test site for the audit.

objectives for visual quality were exceeded

The test area encompassed the cruise ship corridor along the Inside Passage between Vancouver Island and the mainland. It also included a portion of Highway 19, which is an important travel corridor for tourists traveling on Vancouver Island.

Government sets visual quality objectives for designated scenic areas, and forest companies are required to conduct timber harvesting in a manner that meets these objectives.

The main objectives are:

- Preservation, where alteration to the landscape is small in scale and indistinguishable from the pre-harvest landscape.
- Retention, where alteration to the landscape is difficult to see, small in scale and designed to mimic natural occurrences.

- Partial Retention, where alteration to the landscape is easy to see, small to moderate in scale and designed to appear natural and not angular or geometric.
- Modification, where alteration to the landscape is easy to see and is either large in scale, with a design that is natural in appearance, or small-to-moderate in scale, but with a design that has some angular characteristics.
- Maximum Modification, where alteration to the landscape is extremely easy to see and one or both of the following apply: the alteration is large in scale, and/or the alteration is angular and geometric.

The audit successfully tested the effectiveness of using criteria to evaluate visual resource management through forest practices. In general, we found that visual quality was managed diligently, and objectives for visual quality were exceeded in many cases. However, the audit also revealed some challenges in managing visual quality. For example, blowdown is a significant factor that complicates designing cutblocks in this area. Visual corridors are also much more challenging to manage than a single viewpoint.

As a result of the audit, the Board recommended that the Campbell River Forest District develop a comprehensive strategy for managing visual resources along the Highway 19 corridor in the district. In response, the district has developed an Order establishing scenic areas and visual quality objectives for the Campbell River Forest District. The Board also recommended that the Ministry of Forests and Range complete its visual resource management framework for roadside and other foreground alterations. Future audits of visual resource management will assess the status of this framework.

ROB THOMSON, COMPLAINT ANALYST

Cowichan Rare Plant Communities Investigation

An investigation of a complaint by the Carmanah Forestry Society led to a recommendation that government agencies complete site assessments to identify endangered plant communities before approving any further logging in coastal Douglas fir (CDF) ecosystems on Southeast Vancouver Island.

The society, concerned that logging would eliminate some endangered plant communities, complained about an April 2004 approval of a BC Timber Sales Program plan to log on southeast Vancouver Island. The area in question included the coastal Douglas fir ecosystem, which has become rare as a result of urban development and past logging. The provincial Conservation Data Centre has identified 20 red-listed (endangered or threatened) plant communities that are likely to occur in this ecosystem.

Very little area within the CDF landscape remains on Crown land, and this small land base has a strong potential for endangered plant community occurrences. Although government has a number of options for protecting these red-listed plant communities, they are greatly restricted by current government policy. The majority of the CDF ecosystem in this area is located on private land, where government is not able to control logging practices in order to protect endangered species.

NANAIMO – M. CASKEY

The tools needed to protect endangered or threatened plant species on southeast Vancouver Island are either lacking or inadequate. The investigation found there is currently no effective mechanism in place to adequately conserve red-listed plant communities on Crown forest lands in this area.

NANAIMO – M. CASKEY

In light of this, the Board made the following recommendations:

1. Government agencies should require assessments to identify red-listed plant species, before approving any further logging in the CDF zone on southeast Vancouver Island.
2. The Minister of Environment should promptly designate the appropriate red-listed plant communities in the CDF zone as species at risk, and establish wildlife habitat areas to conserve them.
3. The South Coast Inter-Agency Management Committee should assess whether old-growth management areas will be adequate for long-term conservation of red-listed plant communities.
4. The Board reaffirms an Inter-Agency Management Committee's recommendation that government review, and consider increasing, the one percent timber supply cap for creating new wildlife habitat areas in the South Island Forest District.

Since these recommendations were made, a draft assessment procedure for red-listed plant communities was completed in March 2006 and government agency staff have conducted a joint field trip to test the procedure. The Board has been advised that this assessment tool will be used on proposed harvest areas in the CDF zone.

As well, the Ministry of Environment advised the Board that it would place the original CDF red-listed plant community back on the list of species at risk as part of the *Identified Wildlife Management Strategy*—a necessary step to enable the designation of wildlife habitat areas for particular plants or animals. In June 2006, the Minister of Environment amended the list to include this and three other CDF plant communities.

A terrestrial ecosystem mapping program is being planned and is expected to take two years to map the CDF ecosystem, identifying potential red-listed plant community sites.

The South Coast Inter-Agency Management Committee is developing strategic-level options for government to consider for a conservation strategy for the CDF. It has also increased the targets for retaining CDF on Crown land from 9 percent to 14 percent.

PROGRAMS

CHRIS MOSHER, DIRECTOR, AUDITS

AUDITS

Accomplishments

Ten new audits were started and ten ongoing audits were completed and published during the year, including six compliance audits (one major licensee, two BC Timber Sales Programs and three new/small licensees), one enforcement audit, two pilot effectiveness audits and an audit of forestry activities on Nisga'a land.

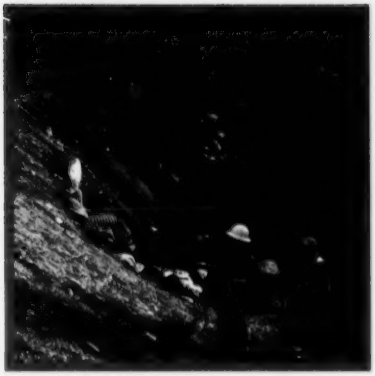
Activities audited by the FPB in 2005/06:

- Fire protection activities on 13 active sites
- Harvesting of 362 cutblocks
- 31.15 km of road construction
- 3,030 km of road maintenance
- 78.3 km of road deactivation
- 20.4 km of temporary access structures
- 114 bridges constructed and/or maintained

The pilot effectiveness audits published this year examined riparian values and visual values. As a result of the visual effectiveness audit, the Board made two recommendations, described on page 27.

Priorities

- The assessment of biodiversity conservation will be completed in spring 2006.
- The water management audit is continuing and will be complete in summer 2006.
- The 2006 audit season will see the continuation of audits focusing on the Board's strategic priorities, such as smaller tenures, the BC Timber Sales program, limited scope audits of multiple auditees—as well as a continuation of pilot effectiveness audit work, with one audit assessing soils conservation, and another looking at multiple values in one area.



- The Board will conduct another audit of the appropriateness of government enforcement in 2006.
- The Board will begin developing an audit program to assess compliance with and enforcement of the *Wildfire Act*.
- The Board has agreed with the Nisga'a Lisims government to assess the completion of the final transitional provisions within the Nisga'a Treaty in fall 2006, with a final assessment to be done in 2008.

AUDITS COMPLETED AND PUBLISHED IN 2005-06

Compliance Audits

BC Timber Sales, 100 Mile House Forest District

All practices in compliance.

AREA OF IMPROVEMENT: better management practices for mountain pine beetle salvage.

No recommendations made

Northern Nlaka'pamux Forestry Resources, Non-Replaceable Forest Licence A73168, Kamloops Forest District

All practices in compliance.

No recommendations made

C&C Wood Products Ltd., Non-Replaceable Forest Licence A55477, Quesnel Forest District

All practices in compliance.

No recommendations made

Lakeland Mills Ltd., Forest Licence A18163, Prince George and Vanderhoof Forest Districts

All practices in compliance.

No recommendations made

ROBERT VOLKMAN
FOREST PRACTICES AUDIT MANAGER

CLARE VINCENT
FOREST PRACTICES AUDIT MANAGER

AUDITS COMPLETED AND PUBLISHED IN 2005-06

Compliance Audits

S.W.C. Holdings Limited, Forest Licence A16848, North Island – Mid-Coast Forest District

All practices in compliance.

No recommendations made

BC Timber Sales, Lakes Forest District

All practices in compliance.

AREA OF IMPROVEMENT: excessive soil disturbance from harvesting practices by timber sale licence holders.

No recommendations made

5th Annual Audit of Nisga'a Lands, Kalum Forest District

New Skeena Forest Products Inc, Sim Gan Forest Corporation, West Fraser Mills Ltd, BC Timber Sales, Skeena Business Area, Kalum Forest District Manager

Interim compliance report published in February 2006 – Board will continue to assess the finalization of transitional period commitments with field visits in October 2006 and 2008.

No recommendations made

Enforcement Audits

Audit of Enforcement of Forest Legislation, Fort St. James Forest District

Ministry of Forests and Range, Ministry of Environment

The audit found enforcement of forest legislation to be appropriate.

No recommendations made

KEVIN EDQUIST
FOREST PRACTICES AUDIT MANAGER

AUDITS COMPLETED AND PUBLISHED IN 2005-06

Pilot Effectiveness Audits

RIPARIAN PRACTICES

Wyndell Box and Lumber Company, Forest Licence A20214, Kootenay Forest District

Audit found good performance by forest company by protecting streams from the effects of logging.

No recommendations made

VISUAL MANAGEMENT

International Forest Products Ltd., Tree Farm Licence 45 and Forest Licence A19232

TFL Forest Ltd., Tree Farm Licence 47 and Forest Licence A20913

Weyerhaeuser Ltd., Tree Farm Licence 39 and Forest Licence A19225

Canadian Forest Products Ltd, Forest Licence A19233

BC Timber Sales—Strait of Georgia

Campbell River Forest District

Audit found good performance by forest companies in limiting the visual impact of logging activities.

Two recommendations made and implemented. See table on page 27.

NEW AUDITS STARTED IN 2005-06

Compliance Audits

AUDITEE	FOREST DISTRICT	STATUS
BC Timber Sales	Rocky Mountain	The findings will be reported publicly upon completion in April 2006.

Enforcement Audits

Final Audit of Nisga'a Lands • **Ministry of Forests and Range** • **Ministry of Environment**	Kalum	The findings will be reported publicly upon completion, anticipated in mid-2006.

Pilot Effectiveness Audits

BIODIVERSITY CONSERVATION

Canadian Forest Products Ltd., Tree Farm Licence 37	North Island – Central Coast	Assessment to test new tools to audit the effectiveness of forest practices in maintaining biodiversity. The findings will be reported publicly upon completion in April 2006.

WATER QUALITY

Atco Forest Products Ltd. **Kalesnikoff Lumber Co. Ltd.** **Pope & Talbot Ltd.**	Arrow Boundary Ladybird and Springer Creek Watersheds	Pilot audit of the effectiveness of forest practices at maintaining water resource values in two community watersheds. The findings will be reported publicly upon completion, anticipated in mid-2006.

AUDITS – RECOMMENDATIONS FOR IMPROVEMENT

Visual Audit

NEW RECOMMENDATIONS MADE	RESPONSES
Ministry of Forests and Range complete its visual resource management framework for roadside and other foreground alterations.	Ministry of Forests and Range head office is currently working on a policy for roadside and other foreground alterations.
In cooperation with applicable licensees and the public, the Campbell River Forest District should complete and implement a comprehensive strategy for managing visual resources along the Highway 19 corridor within the audit area.	The district has developed an order establishing scenic areas and visual quality objectives.

BEN VAN DRIMMELEN
DIRECTOR, INVESTIGATIONS

INVESTIGATIONS

Accomplishments

This year the Board received 88 concerns from the public. Of those, 11 were submitted as formal complaints and the remainder were addressed over the phone, or referred to an appropriate agency or company for response. Sixteen complaint investigations were completed during the year.

Also during this past year, the Board undertook a review of the complaint investigation process. The Board is adjusting the process so that it provides:

- increased flexibility in dealing with concerns, without a complaint being filed
- more leeway for investigating participants issues—even if it strays beyond our explicit jurisdiction—particularly if that might help reach solutions for the participants
- increased flexibility in reporting results of an investigation
- increased flexibility in deciding whether to deal with issues that are important to the public in the context of a complaint or by recommending special investigations or special reports
- opportunities to publicize the Board's complaint investigation service

issues that are important to the public

A new approach to complaint investigations is now being tested on a few current investigation files, though the review and adjustment process is still continuing.

AL PEATT, COMPLAINT ANALYST

PETER NAGATI, A/DIRECTOR CORPORATE SERVICES/COMPLAINT ANALYST

RICHARD POST, COMPLAINT ANALYST

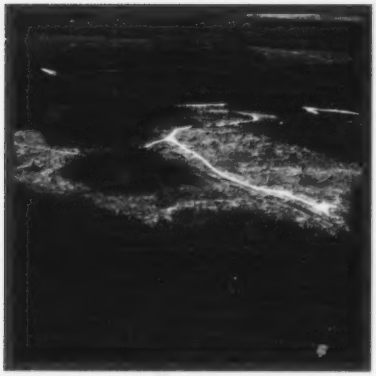
Priorities

More generally, the section's priorities for the coming year are largely a continuation of those identified last year:

- complete the review of the efficiency and effectiveness of the Board's approach to investigation of public complaints
- complete the currently open investigations by December 31, 2006
- continue to address concerns and complaints promptly upon receipt
- continue to shorten the duration of complaint investigations
- identify issues arising in complaints that are of broad enough concern that they should be considered in a special investigation or special report

COMPLAINTS RECEIVED IN 2005-06

LOCATION, DATE RECEIVED, TITLE	NATURE OF COMPLAINT	STATUS (MARCH 31, 2006)
Queen Charlotte Islands, April 2005 - Management of Haida Gwaii Goshawks	Harvesting should not be approved in a wildlife habitat area for goshawks.	Reported February 2006
Northcentral BC, July 2005 - Consistency of Logging with the Robson Valley LRMP	Beetle salvage harvesting is unreasonably damaging scenic values and a recreation and conservation management area.	Open
Sunshine Coast, August 2005 - BCTS Logging at Roberts Creek	Five cutblocks should not have been approved on Mount Elphinstone.	Open
Central BC, September 2005 - Chase Creek Harvesting	Beetle salvage harvesting is unreasonably damaging habitat for furbearers.	Open



COMPLAINTS RECEIVED IN 2005-06

LOCATION, DATE RECEIVED, TITLE	NATURE OF COMPLAINT	STATUS (MARCH 31, 2006)
East Kootenays, September 2005 - Round Prairie Harvesting	Green (uninfested) trees were being harvested and excess debris left on site during beetle salvage harvesting.	Reported October 2005
Southern Vancouver Island, October 2005 - Cowichan Thinning Proposal	Planned harvesting would eliminate scientific research and damage rare plants.	Reported February 2006
Central BC, December 2005 - Quesnel River Debris	Beetle salvage harvesting is unreasonably leaving excessive debris that reduces range values.	Open
Northcentral BC, January 2006 - Ootsa Beetle Salvage	Beetle salvage harvesting is unreasonably damaging wildlife habitat values.	Open
Fraser Valley, February 2006 - Woodlot All-Terrain Vehicles	Public recreation on all-terrain vehicles is damaging streamside habitats of rare species.	Open
Western Vancouver Island, February 2006 - Maggie Lake FDP Amendment	Consultation with First Nations was inadequate.	Open
Fraser Valley, February 2006 - Pacific Water Shrew	Woodlot forest practices are damaging rare species' habitats.	Open

ROZ IRVINE, CORPORATE SERVICES CLERK/ INVESTIGATION COORDINATOR

COMPLAINT INVESTIGATIONS – RECOMMENDATIONS FOR IMPROVEMENT

Impact of Harvesting on Tourism

NEW RECOMMENDATIONS MADE	RESPONSES
Ministry of Forests, Nadina Forest District, in consultation with its licensees, should develop processes to promote effective consultation with private property owners and overlapping business interests that are likely to be affected by proposed forestry development.	Being implemented

Cowichan Rare Plants

Because of the high risk of extirpation, knowing the conservation significance of a site is critical. Staff from the South Island Forest District and Ministry of Environment regional staff should work together to develop a conservation protocol for assessing areas for red-listed plant communities within the coastal Douglas fir in Resource Management Zone 34 before any further harvest plans are approved on the east coast of Vancouver Island.	Implemented
In the interim, the South Island Forest District should ensure that assessments are conducted on proposed cutblocks in Resource Management Zone 34 within the coastal Douglas fir, before further harvesting is approved in this ecosystem. Ministry of Forests and Range should consult Conservation Data Centre staff and seek agreement with Ministry of Environment on the necessary expertise required to conduct assessments for element occurrences of red-listed plant communities.	Rejected
As the red-listed plant communities are only fully developed at an old forest seral stage, the South Coast Inter-Agency Management Committee (IAMC) should assess whether the current landscape level planning targets for old growth in Resource Management Zone 34, in conjunction with other mechanisms, will provide adequate ecological representation in the long term, for red-listed plant communities.	Implemented and expanded. The targets for coastal Douglas fir on Crown land were increased from 9 percent to 14 percent. The South Coast IAMC is also considering whether adequate ecological representation will be achieved in the long term.

GLEN PILLING, COMPLAINT ANALYST

COMPLAINT INVESTIGATIONS – RECOMMENDATIONS FOR IMPROVEMENT

Cowichan Rare Plants

NEW RECOMMENDATIONS MADE	RESPONSES
The Board recommends that the Minister of Environment put a high priority on designating those red-listed plant communities in the coastal Douglas fir unit that may be affected by forest management on Crown land as species-at-risk, and establishing wildlife habitat areas for those species.	Rejected
The Board reiterates and supports the November 17, 2003 recommendation from the South Coast IAMC to the Ministry of Environment that government review and consider increasing the one percent timber supply cap on the *Identified Wildlife Management Strategy.*	Rejected

Humpback Whales and Helicopter Log Drops on the North Coast

The Ministry of Environment, Ministry of Agriculture and Lands (Integrated Land Management Bureau) and the Ministry of Forests and Range, engage with the Federal Department of Fisheries and Oceans to examine the habitat needs of the Northern Pacific Humpback Whale, and determine whether mechanisms are needed to protect important coastal habitats where there is a potential for forestry operations, specifically log drops and storage areas, to have negative impacts on the whales migration routes, feeding and rearing areas.	Due December 2006

Logging in Murrelet Habitat on Haida Gwaii

Agencies and the licensee report on progress made towards completing the following initiatives. 1. That the Ministry of Environment and the licensee continue improving their inventory on the amount and quality of habitat. 2. That the Ministry of Environment and the Ministry of Forest and Range set marbled murrelet habitat conservation objectives at the regional and landscape unit-level. 3. That the Ministry of Agriculture and Lands and the Ministry of Environment meet those objectives through the designation of old growth management areas and/or wildlife habitat areas, considering the entire landbase without necessarily restricting options relative to the non-contributing land base as delineated for timber supply review purposes.	Due April 2006

COMPLAINT INVESTIGATIONS – RECOMMENDATIONS FOR IMPROVEMENT

Unauthorized Construction of a Cabin and Trail on Sinclair Mountain

NEW RECOMMENDATIONS MADE	RESPONSES
The Skeena Stikine Forest District and Ministry of Agriculture and Lands to decide about the use of the Sinclair Mountain cabin by October 1, 2005, and either issue a tenure or remove the cabin consistent with the guidance provided by the Bulkley Valley Land and Resource Management Plan and the recreational access management plan.	Implemented. Tenure for the cabin was issued to the snowmobile club.
The Skeena Stikine Forest District is addressing the unauthorized use of the trail to the cabin by: • following the recommendations and analysis of the inter-agency working group reviewing alpine use • prohibiting ATV use in areas designated as summer non-motorized use in the Bulkley Valley Recreational Access Management Plan through use of section 58 of the *Forest and Range Practices Act* • undertaking a field review of the environmental impact and condition of the trail leading to the cabin • attaching conditions to its use that would require the permit holder to improve or stabilize the existing trail if the existing cabin is to remain • deactivating the existing trail, and, if a trail is required, relocating it to a more suitable location.	Implemented. The district deactivated the trail and signed the area as prohibiting ATV use. The district manager did not invoke FRPA at this time, but is waiting to see of the prohibition is respected on a voluntary basis first.
The Skeena Stikine Forest District to erect a sign at both the trail head and at the cabin stating that summer motorized vehicle use is restricted in accordance with the recreational access management plan. The sign should be erected by August 15, 2005.	Implemented

Public Input Regarding Logging on Vedder Mountain

The Board recommends that BC Timber Sales arrange, in association with the provincial phantom orchid recovery team, formal monitoring of phantom orchid communities at its Vedder Mountain cutblock with the intent of determining the success of that particular prescription.	Due September 2006

COMPLAINT INVESTIGATIONS – RECOMMENDATIONS FOR IMPROVEMENT

Harvesting in the Winslow Goat Winter Range

NEW RECOMMENDATIONS MADE	RESPONSES
The Board recommends that the Ministry of Water, Land and Air Protection (now Environment) establish ungulate winter ranges and general wildlife measures in the Fraser timber supply area.	The ministry indicated the recommendation would be implemented, but that has not happened to date.

Nadina Beetle Treatments

The Ministry of Forest and Range's Nadina Forest District, in consultation with its licensees, develop processes to promote effective consultation with private property owners and overlapping business interests that are likely to be affected by proposed forestry development.	Implemented
The Board recommends that the Ministry of Forests and Range: • provide provincial policy for tracking MSMA (an arsenic based pesticide) treated trees to ensure that treated trees are not harvested and milled; • provide provincial policy, with regard to MSMA use, that the terms 'isolated' or 'remote' meaning out of the way or secluded, with no chance of harvest and not near areas that are or could be frequented by people; and • provide direction to those advertising for comments from the public to use clear and normal wording, and not use technical or ambiguous definitions.	Rejected. The Board is now investigating a subsequent complaint about the lack of policy as previously recommended by the Board.

DARLENE OMAN, DIRECTOR
SPECIAL PROJECTS

SPECIAL PROJECTS

Special projects examine issues of broader public interest and they continue to generate the most public interest, as evidenced by the number of reports downloaded from the Board's website (7 of the top 11). Special projects allow the Board to examine the most topical issues challenging forest management in BC today, such as the response to the mountain pine beetle epidemic, forest fuels and wildfire risk, management of habitat for species at risk and the evolution to the new *Forest and Range Practices Act*. Work during the fiscal year covered all of these topics and more.

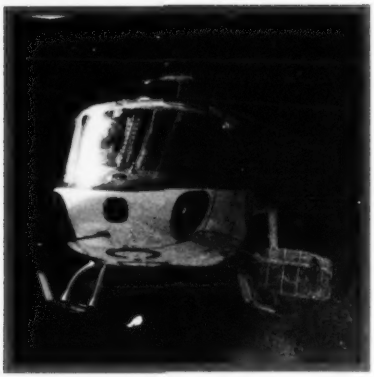
Special Investigations/Reports – Accomplishments

Four special projects were completed and published during the year:

1. Access Management Special Report
2. Post-Wildfire Hazard Assessment Special Report
3. Special Investigation of Managing Landslide Risk from Forest Practices in British Columbia
4. Special Investigation of FSR Bridges: Inspections and Maintenance

In addition, eight new projects were started or continued during the year:

1. Special Report on Forest Health, Fuels and Wildfire: Implications for Long-Term Ecosystem Health (continued from 04/05)
2. Special Investigation of Planning for Silvicultural, Biodiversity, Watershed and Forest Fuel Objectives in Mountain Pine Beetle Salvage Areas in a Landscape Unit West of Quesnel
3. Special Report on the Outcome of Water Issues Complaints Received by the Board
4. Special Report on Control of Invasive Plants
5. Special Investigation of the Establishment of Spatially-defined Conservation Areas



6. Special Report on Impacts to Karst Features
7. Special Report Summarizing Board Investigations of Species at Risk Complaints in the Chilliwack and South Island Forest Districts
8. Special Report on Forest Stewardship Plans

Priorities

- The Forest Fuels and Invasive Plants special reports will be completed in 2006.
- The Mountain Pine Beetle Salvage special investigation series of reports will be presented in several companion reports, each covering different aspects of current salvage harvesting efforts. These reports will be released over the remainder of 2006/07.
- New projects initiated in 2006 will look at:
  - partial cutting in cedar stands on the coast
  - range practices in upland areas
  - reasons for the many amendments required to achieve free-growing status

topical issues challenging forest management in BC

MARVIN ENG
SPECIAL INVESTIGATIONS MANAGER

SPECIAL PROJECTS – RECOMMENDATIONS FOR IMPROVEMENT

Access Management

NEW RECOMMENDATIONS MADE	RESPONSES
The Ministry of Forests and Range should proceed expeditiously with the ongoing development of legislation to streamline and integrate the resource road use regulatory framework. The new legislation should address the lack of consultation on creating and deactivating roads.	Due December 2006
The Ministry of Agriculture and Lands, in consultation with other relevant government agencies, should develop provincial policy on when and how public access restrictions should be imposed on Crown land, including which agency should be responsible for implementation and enforcement.	Due December 2006

Landslides

The landslide management system that was developed under the old Forest Practices Code should continue under the Forest and Range Practices Act. Terrain stability field assessments can be a strong tool for management of unstable terrain. Licensees should continue doing terrain stability field assessments and use the results.	Due July 2006
The Ministry of Forests and Range regional offices should establish quantitative criteria for classifying landslide hazard in terrain mapping. A landslide hazard class should be defined by the probability or expected frequency of landslides per unit area, rather than by a subjective description.	Due July 2006
The Ministries of Environment, and Forests and Range, should establish what "a material adverse effect" from landslides would be for each resource value in the *Forest and Range Practices Act*—with public resources it is the role of government, not individual licensees, to define where the threshold is for a material adverse effect on resource values. It is important to develop criteria for acceptable risk for each of the *Forest and Range Practices Act* values separately.	Due July 2006
The Ministry of Forests and Range should regularly conduct inventories of landslides as part of the Forest and Range Evaluation Program, as there is no *Forest and Range Practices Act* requirement for licensees to report landslides.	Due July 2006

SPECIAL PROJECTS – RECOMMENDATIONS FOR IMPROVEMENT

NEW RECOMMENDATIONS MADE	RESPONSES
Licensees should use a decision-making framework to manage landslide risk. A framework separates the process of landslide risk management into distinct steps, and clarifies the respective roles of terrain stability professionals and forest resource managers (see the Board's Reiseter Creek complaint investigation for more discussion of this concept). Licensees should also develop objective criteria for triggering when a terrain stability field assessment must be conducted, to provide consistency in application across their operations. One example is the criteria currently being developed by a coastal licensee that combines terrain stability mapping, climatic zone mapping and watershed use to trigger when a terrain stability field assessment is needed.	Due July 2006
The Joint Practices Board, or the ABCFP, should develop companion guidelines for forestry managers to the APEGBC *Guidelines for Terrain Stability Assessments in the Forest Sector*. This guidebook should provide advice to the forest manager in applying appropriate levels of landslide risk management. The guidebook should also provide standardized terminology for effective communication, and clarify the responsibilities of forest managers and terrain professionals.	Due July 2006
Post-Wildfire Hazard Assessment	
The Board recommends that the provincial government designate a lead agency (or agencies) for post-wildfire hazard assessment and post-wildfire risk management.	Due December 2006
The Board recommends that the provincial government complete a standard operating procedure for post-wildfire risk assessment and management and implement it where appropriate.	Due December 2006
The Board recommends that, where there is an unacceptable risk to people, property or infrastructure after an interface wildfire, the provincial government should explore ways of helping those at risk manage and mitigate the risk.	Due December 2006
FSR Bridges: Inspections and Maintenance	
The Ministry of Forests and Range should address the remaining five bridges with structural deficiencies identified in the investigation as not having been adequately managed, so that the risk to user safety is minimized.	The ministry has addressed the outstanding issues on these bridges. (Complete)

SPECIAL PROJECTS – RECOMMENDATIONS FOR IMPROVEMENT

NEW RECOMMENDATIONS MADE	RESPONSES
The Ministry of Forests and Range should communicate to the Board how it will ensure it can deliver the results required for bridge maintenance under FRPA.	The ministry has developed an internal procedure for inspections and maintenance of bridges on forest service roads (Complete)

PREVIOUS YEARS' RECOMMENDATIONS COMPLETED

Kemess South Mine Power Line Right-of-Way

Kemess Mine should have the remaining 53 bridges and their approaches professionally assessed and attended to by a registered professional engineer and a certified professional in erosion and sediment control, during the 2004 inspection. Kemess Mine should ensure that the risk to the environment is minimized by completing any remedial, stabilization, erosion control, deactivation, and/or maintenance work that is recommended by the registered professional engineer and the certified professional in erosion and sediment control.	Kemess Mine removed all remaining skid bridges.

Integrating Non-Timber Forest Products into Forest Planning and Practices in British Columbia

Government should conduct the research necessary to quantify the current economic contribution of the NTFP sector to the province and its contribution to economic diversification of rural communities. Government should also continue to support and undertake research to develop knowledge about compatible management of timber and NTFP resources, and sustainable management of NTFPs.	Some research has been funded.

BC's Mountain Caribou: Last Chance for Conservation?

Establish a small Mountain Caribou Implementation Task Force, with representation from MWLAP, MSRM and MOF, charged with the integration and timely implementation of the province's investment in mountain caribou recovery, regulatory, research, inventory and monitoring program.	Species At Risk Coordination Office established and funded to coordinate provincial recovery plans for Mountain Caribou and other species at risk.

LEGAL APPEALS

Under the *Forest and Range Practices Act*, the Board is given the authority to appeal certain decisions related to enforcement of the Act, as well as to join appeals requested by licensees. The Board is given this authority so it can represent the public interest in these matters, rather than having the public get directly involved in these legal cases. This is a very different role from the neutral, independent watchdog role the Board plays in its audit and investigation work. In legal appeals, the Board acts as an advocate for the public interest and takes sides on issues, which are then decided by the Forest Appeals Commission, a separate government agency.

The Board regularly receives copies of determinations made by Ministry of Forests and Range district managers around the province. Determinations are decisions that a person or company has or has not contravened the *Forest and Range Practices Act*. Sometimes the decision includes a penalty assessed against the licensee. Licensees can appeal these determinations to the Forest Appeals Commission, if they do not agree with the decision. The Board reviews both determinations and appeals and may choose to appeal a determination or get involved in a licensee appeal, if the matter involves an issue of public importance.

- Determinations reviewed = 159
- Appeals reviewed = 17
- Appeals joined = 4

clarifies the law on due dilligence

JOHN PENNINGTON, LEGAL COUNSEL

Appeals in Progress

POPE AND TALBOT TRESPASS

About two hectares of leave trees were cut down, contrary to what was specified in a silviculture prescription. The licensee argued that it had been diligent enough to have the defence of due diligence. The district manager decided that much diligence was required because there was a significant risk that this complex prescription might not be accurately followed. Also, there was a high risk of damage to caribou habitat. However, the prescription was complex because the licensee had tried to design it to accommodate caribou habitat needs. The licensee had reported its own contravention and it was not deliberate. A $1,000 fine was divided between the licensee and the contractor.

The licensee appealed, but the appeal has been suspended until the Forest Appeals Commission clarifies the law on due diligence as a defence.

L&M TRESPASS

A feller buncher operator, in low light, started harvesting on the wrong side of a ribboned boundary. The supervisor soon saw the problem, stopped the work and reported it to the Ministry of Forests and Range. The licensee did not dispute the facts but asserted due diligence as a defence. The licensee said the machine operator had failed to take proper instruction from his supervisor. The district manager said that such trespass was foreseeable, given a number of similar previous contraventions. Given such a likelihood, the licensee should have applied a higher degree of care to avoid trespass than would a licensee with no previous incidents. A $2,000 deterrence fine was imposed.

The licensee appealed, but the appeal has been suspended until the Forest Appeals Commission clarifies the law on due diligence as a defence.

KOOTENAY MAIN KARSTS

Road construction damaged previously-identified karst (sensitive limestone) features. The karst features had been described and marked in the field, and protective actions set out. The road crew was informed, but the sensitive features were damaged. The licensee was a very small company, and the president was fined $45,000. The president, however, claimed that his company, and not he personally, had committed the contravention and that he was not liable unless he had actually authorized the damaging activities. He said there was no evidence that he had authorized it in this case.

Appeals Concluded

WEYERHAEUSER UNAUTHORIZED HARVEST

The Forest Appeals Commission, in January 2006, decided an appeal by Weyerhaeuser Company Limited of a penalty of $2,012 for unauthorized harvesting of Crown timber by a subcontracted machine operator. The licensee said that it had exercised due diligence.

The Board argued that there had not been sufficient diligence because the work of the machine operator should have been more closely supervised. The Board also argued that, for the licensee to succeed with a due diligence defence, the licensee and the contractor and the machine operator should all have been sufficiently diligent; in this case, it was clear that the machine operator had not been diligent.

The Commission decided that, in the circumstances, the licensee could not reasonably have foreseen the problem. That was enough to establish due diligence. Also, the Commission disagreed with the Board's argument on which parties had to be diligent; the licensee was responsible only for its own diligence, not that of the machine operator.

Library and Archives Canada Cataloguing in Publication Data

British Columbia. Forest Practices Board.
Annual report. -- 1995-

Annual.
ISSN 1203-9071 = Annual report - British Columbia Forest Practices Board

1. British Columbia. Forest Practices Board - Periodicals.
2. British Columbia. Forest Practices Code of British Columbia Act - Periodicals.
3. British Columbia. Forest and Range Practices Act - Periodicals.
4. Forest policy - British Columbia - Periodicals.
5. Forest management - British Columbia - Periodicals.
6. Forestry laws and legislation - British Columbia - Periodicals. I. Title.

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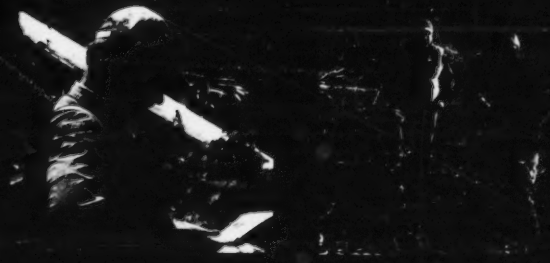
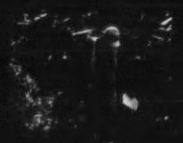
(Rev. July 19, 2005)





3rd Floor 1675 Douglas St., PO Box 9905 Stn Prov Govt. Victoria, British Columbia, Canada V8W 9R1
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